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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,662	03/17/2004	Thomas J. Bachinski	77012-325797	2663
58506 7590 05/28/2008 FAEGRE & BENSON, LLP PATENT DOCKETING 90 SOUTH SEVENTH STREET 2200 WELLS FARGO CENTER MINNEAPOLIS, MN 55402				
			EXAMINER BARTOSIK, ANTHONY N	
			ART UNIT 3635	PAPER NUMBER
			NOTIFICATION DATE 05/28/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

e-OfficeActionHNI@faegre.com

### Office Action Summary

**Application No.**

10/802,662

**Applicant(s)**

BACHINSKI ET AL.

**Examiner**

ANTHONY N. BARTOSIK

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 and 26-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 22-25 and 30-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/17/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

This is a second and Final Action sent in response to Applicant's amendments of 01/30/2008.

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, a fireplace with a front panel and support structure on both sides of the fireplace must be shown or the feature(s) canceled from the claim(s). Also, insulative or heat reflective materials must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

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Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

The previous objection directed towards claim 3, wherein the term "the display screen" lacked proper antecedent basis is removed.

### ***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 1-2, 4, 5, 8, 12, 22, 23, 31, 32, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over in Richmond et al. (US 6,796,088) view of Hechler (US 5,826,357).**
3. In Re claim 1, Figures 1-4 of Richmond et al. disclose a fireplace (12) with a front panel (41) and a support structure (the wall it is mounted to; Col. 7 Lines 3-8) on both sides of the fireplace (12); a decorative surround, the surround comprising a horizontal member (50) defining a top of the surround and vertical members (46 & 48) disposed below the horizontal member (50) and defining sides of the surround, the horizontal (50) and vertical members (46 & 48) together forming an internal space sized to surround

the fireplace (12), the surround being a modular unit that is disposed between the support structure (the wall its mounted to) and the front panel (41) providing a transition between the support structure and the front panel (41) of the fireplace (12). Richmond et al. does not disclose a monitor or a sound system in connection with the fireplace and surround.

It is well know to integrate entertainment systems with fireplaces as they are both focal points of a room and it is usually desired to have a single focal point as opposed to two separate points, making room layouts more difficult. The Hechler reference evidences this in Column 1 Lines 48-58 where the objects and advantages of the inventions are discussed. Figures 1 and 2 of Hechler teach a display monitor (30 & 31) coupled to the surround (though the wall/brick); and the compact-disc player positioned at least partially within the surround with the purpose of creating a single focal point of the fireplace and entertainment system. Hechler also teaches a sound system (22) positioned at least partially within the surround (11). Additionally, in Mix et al. (US 6,919,884) speakers (171 & 172 of Figure 1) are shown to be integrated with the surround of a fireplace.

It therefore would have been obvious to one skilled in the art at the time of the invention to modify the fireplace of Richmond et al. to include the sound system as taught by Hechler. Furthermore, it would have been obvious to one skilled in the art at the time of the invention to locate the sound system at least partially within the surround as taught by Hechler.

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4. In Re claim 2, Col. 2 Lines 21-41 of Hechler disclose a signal module (21 & 40) positioned at least partially within the surround and configured to provide a video signal to the display monitor and an audio signal to the sound system.
5. In Re claim 4, Figure 1 of the combination of Richmond et al. and Hechler teach the surround defining a first cavity sized to receive the sound system.
6. In Re claim 5, the combination of Richmond et al. and Hechler teach as access panel (taught as 23 of Hechler) sized to cover the at least one cavity to conceal the sound system.
7. In Re claim 8, the combination of Richmond et al. and Hechler teach the sound system including at least one speaker device.
8. In Re claim 12, the combination of Richmond et al. and Hechler teach the surround defining a cavity sized to enclose the signal module (21 & 40 as taught in Hechler).
9. In Re claim 22, Figures 1-4 of Richmond et al. disclose a fireplace (12) with a front panel (41) and a support structure (the wall it is mounted to; Col. 7 Lines 3-8) on both sides of the fireplace (12); a decorative surround, the surround comprising a horizontal member (50) defining a top of the surround and vertical members (46 & 48)

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disposed below the horizontal member (50) and defining sides of the surround, the horizontal (50) and vertical members (46 & 48) together forming an internal space sized to surround the fireplace (12), the surround being a modular unit that is disposed between the support structure (the wall its mounted to) and the front panel (41) providing a transition between the support structure and the front panel (41) of the fireplace (12). Richmond et al. does not disclose a monitor or a sound system in connection with the fireplace and surround.

It is well know to integrate entertainment systems with fireplaces as they are both focal points of a room and it is usually desired to have a single focal point as opposed to two separate points, making room layouts more difficult. The Hechler reference evidences this in Column 1 Lines 48-58 where the objects and advantages of the inventions are discussed. Figures 1 and 2 of Hechler teach a display monitor (30 & 31) coupled to the surround (though the wall/brick); and the compact-disc player positioned at least partially within the surround with the purpose of creating a single focal point of the fireplace and entertainment system. Hechler also teaches a sound system (22) positioned at least partially within the surround (11). Additionally, in Mix et al. (US 6,919,884) speakers (171 & 172 of Figure 1) are shown to be integrated with the surround of a fireplace.

It therefore would have been obvious to one skilled in the art at the time of the invention to modify the fireplace of Richmond et al. to include the sound system as taught by Hechler. Furthermore, it would have been obvious to one skilled in the art at

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the time of the invention to locate the sound system at least partially within the surround also taught by Hechler.

10. In Re claim 23, the combination of Richmond et al. and Hechler teach as access panel (taught as 23 of Hechler) configured to cover the at least one cavity to conceal the sound system.

11. In Re claims 31 and 34, the combination of Richmond et al. and Hechler teach the claimed invention except for the surround being of one piece construction. The Court in *In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965), "that the use of a one piece construction instead of the structure disclosed in [the prior art] would be merely a matter of obvious engineering choice."). It therefore would have been obvious to one skilled in the art at the time of the invention to make the surround a one-piece construction as a matter of design choice.

12. In Re claims 32 and 35, Figure 1 of Richmond et al. discloses the surround having multi-piece construction.

13. **Claims 3, 6, 7, 9-11, 15, 16, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richmond et al. (US 6,796,088) and Hechler (US 5,826,357) as applied to claim 1 above, and further in view of Gillespie (US 6,915,995).** The Examiner notes that the reasoning as set forth in the rejection to claim



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2 applies to all claims rejected under this section as the teaching and motivation to apply the Gillespie reference would be applicable to all claims under this section.

14. In Re claim 3, the modification of Richmond et al. through the teachings of Hechler teach the claimed invention expect for the monitor being movable. It is well know in the art since the advent of LCD screens to mount televisions in automobile, airplanes, in ceilings, under cabinets; that drop down from a sowed and un-viewable position to an open and viewable position. This has been done to solve the problem of integrating a television where previously there was not enough room to fit a standard size television. Col. 1 Lines 11-24 of Gillespie teaches this concept. Figure 4 of Gillespie teaches a display monitor (50) that is movable between a display position wherein a display screen of the display monitor is viewable, and a retracted position wherein the display screen is not viewable for mounting under a cabinet. Using the teaching from Gillespie it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Richmond et al. and Hechler, to mount the television to the surround under the mantel so that it is viewable in one position and not viewable in another as taught by Gillespie in order to utilize a television without taking away the focal point of the fireplace.

15. In Re claim 6, Col. 1 Lines 11-24 of Gillespie discloses the use of a digital video device.

16. In Re claim 7, Col. 1 Lines 11-24 of Gillespie discloses a display monitor that includes a liquid crystal display (LCD) screen.

17. In Re claim 9, Figure 4 of Gillespie teaches a display monitor that is movable in a vertically downward direction between a generally horizontal retracted position and a generally vertical display position.

18. In Re claim 10, Figure 4 of Gillespie teaches a display monitor is movable in a vertically upward direction between a generally horizontal retracted position and a generally vertical display position.

19. In Re claim 11, the combination of Richmond et al., Hechler, and Gillespie teach the surround including a mantel member that extends generally horizontally across a width of the surround, and the display monitor that is mounted to the mantel.

20. In Re claim 15, the combination of Richmond et al., Hechler, and Gillespie teach the display monitor and a signal module (taught as 21 & 40 in Hechler) that are mounted in the horizontal member (12 as taught in Hechler) and the sound system being mounted in at least one of the vertical members. The Examiner notes that the display monitor is not shown in Gillespie to be mounted in an object, however, the teaching in Gillespie (Col. 1 Lines 27-29) would have prompted one of ordinary skill in the art to mount the display in the horizontal member to remove it from view. The sound

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system of Hechler is disclosed as being mounted in a vertical member of a system for sound for an entertainment system. In combining the references of Richmond et al., Hechler, and Gillespie one of ordinary skill in the art at the time of the invention would have found it obvious to include the sound system of Hechler in the vertical members of Richmond et al. for sound.

21. In Re claim 16, combination of Richmond et al., Hechler, and Gillespie teach the display monitor (50 of Gillespie) that is coupled to the surround with a mounting assembly, the mounting assembly (20 of Gillespie) including at least a pair of linkage members (22 & 32 of Gillespie) and a biasing member (42 of Gillespie).

22. In Re claim 24, combination of Richmond et al., Hechler, and Gillespie teach the display screen that is movable between a display position and a concealed position.

23. In Re claim 25, combination of Richmond et al., Hechler, and Gillespie teach the sound system including first and second speakers, and the surround defining a first cavity in a first vertical member and a second cavity in a second vertical member, the cavities sized to enclose the first and second speakers. See reasoning for claim 15 regarding the speakers. In reference to the limitation to include first and second speakers in each vertical member, using the reasoning from above, it would have been obvious to include a second speaker in the other vertical member for the sound system.

**24. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richmond et al. (US 6,796,088) and Hechler (US 5,826,357) as applied to claim 1 above, and further in view of Goto et al. (US 6,095,623).**

25. In Re claim 13, the combination of Richmond et al. and Hechler teaches the claimed invention except for an access panel. It is notoriously well know to include access panels with entertainment devices such as signal modules in order to hide them from view. Such a teaching is show in Figures 4 and 5 of Goto et al. where as access panel is configured to cover the cavity in order to provide an attractive appearance. It therefore it would have been obvious to one skilled in the art at the time of the invention to include an access panel within the combination of Richmond et al. and Hechler in order to provide a more attractive appearance as taught by Goto et al.

**26. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Richmond et al. (US 6,796,088) and Hechler (US 5,826,357) as applied to claim 1 above, and further in view of Griesau et al (US 7,046,185).**

27. In Re claim 14, the combination of Richmond et al. and Hechler teaches the claimed invention except for the mention of a remote. Griesau et al. teaches the use of a remote control for controlling a television from a remote location. It would have been obvious to one skilled in the art at the time of the invention to include a remote as taught

by Griesau et al. with the combination of Richmond et al. and Hechler in order to add convenience to the user.

**28. Claims 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richmond et al. (US 6,796,088) and Hechler (US 5,826,357) as applied to claims 1 and 22 above, and further in view of Straat (US 6,283,608).**

29. In Re claims 30 and 33, the combination of Richmond et al. and Hechler teaches the claimed invention except for the mention of insulative or reflective materials. It is well known to insulate materials from heat sources in order to protect them. Figure 15 and Col. 11. Lines 43-67 of Straat teach the use of both unsulative and reflective materials to protect devices from generated heat. Using the teachings of Straat, it would have been obvious to one skilled in the art at the time of the invention to modify the combination of Richmond et al. and Hechler to include unsulative and reflective materials to protect the electronic devices as taught by Straat.

### ***Response to Arguments***

30. Applicant's arguments with respect to the rejection based on the Lauter reference have been considered but are moot in view of the new ground(s) of rejection.

***Response to Applicant's Remarks Concerning the Additional Reference***

31. Applicant's remarks were considered, but the Examiner respectfully disagrees. See rejection above.

***Conclusion***

32. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **ANTHONY N. BARTOSIK** whose telephone number is (571)270-3112. The examiner can normally be reached on M-F 7:30-5:00; E.D.T.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot/  
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